

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

DOCKET NO. 2004-90-W/S

Application of Total Environmental)
Solutions, Inc. ("TEST") for approval)
of adjustment in rates)
_____)

PREFILED TESTIMONY

TESTIMONY OF RAYMOND F. PETERSON, P.E.

The South Carolina Department of Health and Environmental Control ("DHEC") submits the following testimony pursuant to 26 S.C. Regs. 103-869(c). The witness named above will be present at the hearing of this matter and, if placed under oath and asked the following questions, would answer as follows:

1. Please state your name and where you work.
A: Raymond F. Peterson. I work for the South Carolina Department of Health and Environmental Control located at 2600 Bull Street, Columbia, South Carolina 29201, as an Environmental Engineer for the Capacity Development Program within DHEC's Water Facilities Permitting Division.
2. What is your educational background?
A: I obtained a Bachelor of Science degree in Civil and Environmental Engineering with an emphasis on Sanitary Engineering from the University of Rhode Island in 1982.
3. Do you hold any professional licenses or certifications?
A: Yes, I have been a South Carolina Registered Professional Engineer since 1989 and a certified Biological Wastewater Operator as well as having other certifications. I have taken numerous field related courses and have worked in the environmental engineering field for the past 22 years.
4. How long have you been in your present position?
A: I have been with DHEC in the Water Supply & Recreational Waters Permitting Section for approximately five and a half years. I have been assigned to the Capacity Development Program since December of 2001. Prior to joining DHEC, I worked in the environmental engineering field for seventeen years.
5. What are your job duties and responsibilities?
A: My duties and responsibilities with DHEC include preparing operating permits for

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all of the public drinking water systems in the state of South Carolina. I also review business plans for existing and proposed water systems, which includes reviewing a system's ability to become and remain a viable water system as well as the physical capacity of the system. Additionally, I review construction projects for proposed new drinking water systems and for systems with viability concerns, and I provide technical assistance to DHEC staff, to owners and operators of water systems, and to the public.

6. What is the purpose of your testimony today?

A: The purpose of my testimony today is simply to provide information to the Commission regarding the compliance status of TESI's Foxwood Hills drinking water system with respect to DHEC's regulatory requirements.

7. Have you prepared an operating permit for the TESI-Foxwood Hills water system? If so, what is the status of this permit?

A: Yes, I prepared a draft operating permit for the Foxwood Hills drinking water system on February 10, 2004, and sent the draft permit to TESI. Shortly thereafter, TESI asked DHEC to delay issuing the permit because of its concerns that certain deadlines set forth in the permit could conflict with deadlines to be included in a consent order that DHEC and TESI were negotiating at that time related to its Foxwood Hills drinking water system. DHEC agreed to delay the issuance of the drinking water permit. After TESI and DHEC agreed to terms on a consent order in late March 2004, DHEC issued a revised draft operating permit to TESI on April 2, 2004. TESI then raised various issues and objections concerning portions of the draft permit which DHEC agreed to review further. In the interim, the water system was inspected on June 8, 2004, and the water system's engineer has prepared a corrective action plan as required by the consent order between TESI and DHEC to address certain deficiencies. The findings of the June 8, 2004, inspection and the corrective action plan are being considered for incorporation into the final permit, but to date the final permit for the operation of the drinking water system has not been issued.

8. What is the basis for the consent order issued by DHEC to TESI for the drinking water system and what does it require?

A: Consent Order 04-58-DW, which has an execution date of April 6, 2004, was issued to address various deficiencies found during DHEC's sanitary survey inspections of TESI's Foxwood Hills drinking water system in 2001, 2002, and 2003. A copy of this consent order is attached as DHEC's prefiled Exhibit 1.

At the time that the consent order was issued, the most recent sanitary survey completed by DHEC had been performed on April 3, 2003. The consent order sets forth the deficiencies that were noted in the April 3, 2003, sanitary survey report, and requires that TESI correct each of these deficiencies within sixty (60)

days of the execution date of the consent order. Specifically, the consent order lists the following deficiencies as items to be addressed and corrected by TESI:

- “A. Flow Meter – The master flow meter was not operating properly;
- B. Cross Connection Control Program – The program did not address how the system intends to identify existing cross connections and to prevent new cross connections from being created in the future;
- C. Leak Detection and Repair – Because the master flow meter was not operating properly, the Respondent could not determine the severity of water loss in the system;
- D. Flushing Program - Complete records for all actions and procedures taken are not maintained and problem areas within the system were not identified;
- E. Storage Sanitary Protection – The overflow pipe at the tank and the tank vent were not fitted with a flapper valve or a screen;
- G. Bypass/Drain/Tap Configuration – The overflow was improperly sized, was not extended to ground level and fitted with a flapper valve or non-corrosive screen, and a concrete pad was not below the overflow pipe to deter erosion problems;
- H. Certified Distribution Operator – A certified distribution operator was not on staff or available; and
- I. Tank Maintenance – The exterior of the tank was not maintained and the interior of the tank had not been inspected and repainted, if necessary. Currently, the tank is not in service.” (See Consent Order 04-058-DW, page 3, Finding of Fact #6.)

In addition to correcting the deficiencies listed above, the consent order required TESI to submit a corrective action plan within sixty (60) days to DHEC which includes a schedule of compliance for repairing and maintaining the system’s storage tank and bringing it back into service. The consent order further required TESI to prepare a General Operations and Maintenance Procedures Manual within ninety (90) days which addresses daily operations and maintenance and includes procedures and documentation for addressing the deficiencies listed in DHEC’s sanitary survey reports. TESI was also required by the consent order to pay a civil penalty to DHEC in the amount of two thousand eight hundred dollars (\$2800.00).

9. Has TESI satisfied the requirements of the Consent Order?

A: TESI has submitted a corrective action plan (which is attached as DHEC’s prefiled Exhibit 2), has submitted a General Operations and Maintenance Procedures Manual, and has paid the civil penalty in full. However, the most recent sanitary survey, which was performed by DHEC on June 8, 2004, revealed that the drinking water system still has some deficiencies. During the June 8, 2004, sanitary survey, DHEC personnel rated the following system categories as

“unsatisfactory”: adequate pressure, cross-connection control program, storage tank security and maintenance, and emergency plan. DHEC personnel also rated the following areas as “needs improvement”: flow measurement, valve and hydrant maintenance, flushing program, storage capacity, certified operator staffing, and procedures manual. The overall rating assigned to the drinking water system for the June 8, 2004, inspection was “unsatisfactory.”

10. Did you participate in the June 8, 2004, sanitary survey?
 - A. Yes, I was one of six members of the DHEC staff who participated in the sanitary survey. In addition to DHEC staff, two of TESI’s representatives also participated in the survey. A copy of the sanitary survey report and accompanying cover letter that was sent to TESI are attached as DHEC’s prefiled Exhibit 3.
11. Does TESI’s Corrective Action Plan address the water system’s storage tank?
 - A: Yes, the corrective action plan addresses the need for the storage tank and proposes to add booster pump stations to address hydraulic pressure concerns. The Report indicates that TESI may need to obtain certain variances of subdivision covenants or condemnation of property for the installation of one or more booster pump stations, which could take as much as a year to resolve.
12. Have you reviewed Mr. Maeder’s prefiled testimony on behalf of TESI and do you have any comments?
 - A: Yes, I have reviewed his prefiled testimony and would like to offer several comments. Mr. Maeder’s testimony states that TESI serves approximately 543 water customers. I would like to clarify that although TESI may currently be serving 543 customers they actually have approximately 700 service connections available and that a distribution system currently is in place to potentially serve over three thousand (3000) lots that have been sold. It is my understanding that TESI has the authority through previous contractual agreements to collect an annual lot enhancement fee for access to these systems from each purchaser of a lot, whether or not connected to the water or sewer system.

In response to a question regarding whether TESI has been in compliance with all South Carolina regulatory requirements since the company’s purchase of these systems, Mr. Maeder’s testimony states “that TESI has essentially complied with all such regulatory requirements.” DHEC does not agree with this statement. TESI has had various violations of DHEC’s regulatory requirements for drinking water and wastewater systems since it acquired the Foxwood Hills drinking water and wastewater systems. My work at DHEC involves the regulation of drinking water systems and I am not involved in the regulation of wastewater systems but I am nevertheless aware that in November 2002, TESI entered into a consent order with DHEC, Consent Order 02-248-W, to address twenty-one (21) violations of TESI’s permitted wastewater discharge limits for chronic toxicity, ammonia-nitrogen,

total residual chlorine, fecal coliform bacteria, and biochemical oxygen demand that occurred between September 2001 and May 2002. A copy of this consent order is attached as DHEC's prefiled Exhibit 4. In addition to citing TESI for violating discharge limits, this consent order further noted that the wastewater treatment facility was not being visited daily by a certified operator of proper grade at that time as required by TESI's wastewater discharge permit. I have been informed by DHEC's wastewater enforcement division, however, that TESI has taken corrective actions since the order was issued and TESI currently appears to be operating the wastewater system in compliance with DHEC's requirements.

TESI has also had violations with its drinking water system. For example, as set forth in Consent Order 04-058-DW, DHEC rated the drinking water system as "unsatisfactory" in sanitary surveys of the system conducted in 2001, 2002, and 2003. As previously stated above, the most recent survey conducted by DHEC on June 8, 2004, also resulted in a rating of unsatisfactory and DHEC found that the water system was deficient in the following areas: inadequate pressure, cross-connection control program, storage tank security and maintenance, and emergency plan.

13. Have you reviewed the prefiled testimony by Mr. Gary Shambaugh and do you have any comments on this document?

A: I believe Mr. Shambaugh's recommendation to "cease all short and long term capital projects and promptly seek potential buyers for these facilities" and the statement that the company's "South Carolina utilities will be destined to fail" raises serious concerns about the future viability of TESI's Foxwood Hills utility systems.

The State Primary Drinking Water Regulations, S.C. Code Ann. Reg. 61-58.1.O (Supp. 2003), requires any existing water system to demonstrate its ability to remain a "viable water system." When the Department issues a final operating permit for the drinking water system in the near future it will incorporate requirements that TESI demonstrate viability and/or evidence that the system will take the necessary actions to create a viable system.

14. What is the Department's recommendation in this matter?

A: The Department requests that any approvals of rate increases consider the funds necessary to provide for the proper operation and maintenance of TESI's Foxwood Hills utility systems.

15. Does this conclude your testimony?

A: Yes.